

1 BILL NO. S-84-02-38

2 SPECIAL ORDINANCE NO. S-1484

3 AN ORDINANCE authorizing the City
4 of Fort Wayne, Indiana to defend
5 and indemnify members of the Common
6 Council with respect to lawsuits
7 brought against them in the per-
8 formance of their legislative duties.

9 WHEREAS, City governments and elected officials in
10 general are more frequently the subjects of litigation;

11 WHEREAS, it is a fundamental principal of Indiana law
12 that Common Council members are immune with regards to the dis-
13 cretionary performance of their legislative duties;

14 WHEREAS, it is the policy of this City that members of
15 the Common Council be defended and indemnified by the City as to
16 lawsuits brought against members of the Common Council for the
17 discretionary performance of their legislative duties;

18 WHEREAS, such defense and indemnification of Council
19 members is a legitimate public purpose, consistent with Indiana
20 law, and necessary to ensure the proper, prompt, and unhindered
21 performance of Council members with respect to their legislative
22 responsibilities.

23 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF
24 THE CITY OF FORT WAYNE, INDIANA:

25 SECTION 1. This Ordinance is passed pursuant to I.C.
26 36-1-3-2 which grants to this City all necessary powers needed
27 for the effective operation of City government. Furthermore,
28 this Ordinance is in no way a limitation of civil liability as
29 proscribed in I.C. 36-1-3-8, but rather, this Ordinance deals
30 with the defense and indemnification of Council members.

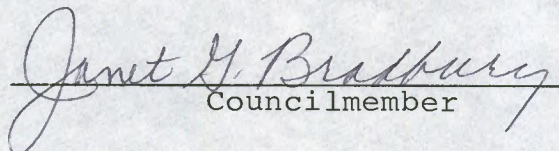
31 SECTION 2. It is and shall be the policy of the City of
32 Fort Wayne, Indiana, to defend and indemnify members of the Common
Council with respect to lawsuits brought against them that involve
the discretionary performance of legislative duties. The perfor-

1 Page Two

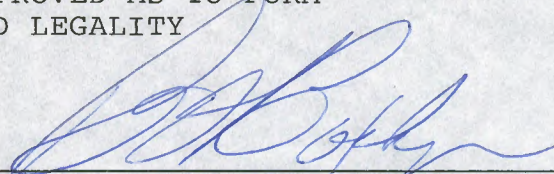
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3 mance of legislative duties, for purposes herein, shall be those
4 legislative duties, as performed from time to time, by Council
5 members pursuant to Indiana law and/or ordinance or resolution
6 of this City. Provided, however, defense and indemnification
7 shall not be provided in those situations in which a Council
8 member would have individual and/or personal liability as pro-
9 vided, from time to time, by Indiana law, whether same be statu-
10 tory or case law.

11 SECTION 3. This Ordinance is necessary to ensure that
12 Council members may freely exercise their legislative responsi-
13 bilities, as charged to them, by the citizens of this community.

14 SECTION 4. That this Ordinance shall be in full force
15 and effect from and after its passage, and any and all necessary
16 approval by the Mayor. Furthermore, this Ordinance shall be
17 deemed to be retroactive so as to apply to any presently pending
18 lawsuit filed against any Council member and that has resulted
19 from the performance of a Council member's legislative duties.
20 This Ordinance shall also apply to any lawsuits brought against
21 any former Council members, if the lawsuit involves such member's
22 performance of legislative duties while a member of Council.

23
24 
Councilmember

25 APPROVED AS TO FORM
26 AND LEGALITY

27 
28 _____
29 Bruce O. Boxberger, City Attorney
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31
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Read the first time in full and on motion by Bradbury,
seconded by J. Stier, and duly adopted, read the second time
by title and referred to the Committee Regulation (and the City
Plan Commission for recommendation) and Public Hearing to be held after
due legal notice, at the Council Chambers, City-County Building, Fort Wayne,
Indiana, on _____, the _____ day of
_____, 19____, at _____ o'clock _____ .M., E.S.

DATE: 2-14-84 Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Bradbury,
seconded by J. Stier, and duly adopted, placed on its
passage. PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	_____	_____	_____	_____
<u>BRADBURY</u>	<u>✓</u>	_____	_____	_____	_____
<u>BURNS</u>	<u>✓</u>	_____	_____	_____	_____
<u>EISBART</u>	<u>✓</u>	_____	_____	_____	_____
<u>GiaQUINTA</u>	<u>✓</u>	_____	_____	_____	_____
<u>HENRY</u>	<u>✓</u>	_____	_____	_____	_____
<u>REDD</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHMIDT</u>	<u>✓</u>	_____	_____	_____	_____
<u>STIER</u>	<u>✓</u>	_____	_____	_____	_____
<u>TALARICO</u>	<u>✓</u>	_____	_____	_____	_____

DATE: Feb 28, 1984 Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort
Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL)
(SPECIAL) ~~(ZONING MAP)~~ ORDINANCE (RESOLUTION) NO. S-14-84
on the 28th day of February, 1984,

ATTEST:
Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

(SEAL)
Ray A. Eibach
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana,
on the 29th day of February, 1984,
at the hour of 11:30 o'clock PM .M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 1st day of March,
1984, at the hour of 1 o'clock P .M., E.S.T.

Win Moses, Jr.
WIN MOSES, JR., MAYOR

BILL NO. S-84-02-38

REPORT OF THE COMMITTEE ON REGULATIONS

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS REFERRED AN
ORDINANCE authorizing the City of Fort Wayne, Indiana to defend
and indemnify members of the Common Council with respect to
lawsuits brought against them in the performance of their legislative
duties

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE Do PASS.

JANET G. BRADBURY, CHAIRWOMAN

SAMUEL J. TALARICO, VICE CHAIRMAN

CHARLES B. REDD

MARK E. GIAQUINTA

JAMES S. STIER

Janet G. Bradbury
Samuel J. Talarico
Charles B. Redd
Mark E. GiaQuinta

CONCURRED IN 2-28-84
SANDRA E. KENNEDY, CITY CLERK

Admn. Appr. _____

~~For the~~
~~City of Fort Wayne~~DIGEST SHEETTITLE OF ORDINANCE Special OrdinanceD-84-02-38DEPARTMENT REQUESTING ORDINANCE Law DepartmentSYNOPSIS OF ORDINANCE An Ordinance authorizing the City of FortWayne, Indiana to defend and indemnify members of the Common Councilwith respect to lawsuits brought against them in the performance oftheir legislative duties.EFFECT OF PASSAGE Representation for Common Council members againstany lawsuits presently pending or that might arise in the future.EFFECT OF NON-PASSAGE Opposite of the above.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) _____

ASSIGNED TO COMMITTEE (PRESIDENT) _____